

## DECLARATION AND PETITION

We, Marie K. WALSH (a resident of North Logan, Utah) and Charles E. CARPENTER (a resident of Wellsville, Utah), declare: that we are citizens of the United States of America; that our residences and post office addresses are 1907 North 3805 East, North Logan, Utah 84341 and 2671 West 5700 South, Wellsville, Utah 84339, respectively; that we verily believe we are the original, first, and joint inventors of the subject matter of the invention or discovery entitled TEXTURED WHEY PROTEIN PRODUCT AND METHOD, for which a patent is sought and which is described and claimed in the specification filed on August 19, 2003; and granted Serial No. 10/644,604; that we have reviewed and understand the contents of the above-identified specification, including the claims; and that we acknowledge the duty to disclose information which is material to the examination of this application in accordance with Section 1.56(a) of Title 37 of the Code of Federal Regulations.

We hereby claim the benefit under Section 120 of Title 35 of the United States code of the earlier filed application Serial No. 09/596,191, filed June 16, 2000, which issued as U.S. Patent No. 6,607,777 on August 19, 2003, which claimed the benefit under Section 119(e) of Title 35 of the United States code of the earlier filed application Serial No. 60/140,280, filed June 18, 1999; and, insofar as the subject matter of each of the claims of these applications is not disclosed in the earlier filed pending

application in the manner provided by the first paragraph of Section 112 of Title 35 of the United States Code, we acknowledge the duty to disclose material information, as defined in Section 1.56 of Title 37 of the Code of Federal Regulations, which occurred between the filing dates of the earlier filed applications and the filing date of this application.

We declare further that all statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful, false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful, false statements may jeopardize the validity of the application or any patent issuing thereon.

Wherefore, we pray that Letters Patent be granted to us for the invention or discovery described and claimed in the foregoing specification and claims, declaration, power of attorney, and this petition.

Signed at Logan, Utah, this  
(City) (State)

15 day of October, 2003.

INVENTOR:

Marie K. Walsh  
Marie K. WALSH  
1907 North 3805 East  
North Logan, Utah 84341

Signed at Logan, Utah, this  
(City) (State)

16 day of October, 2003.

INVENTOR:

Charles E. Carpenter  
Charles E. CARPENTER  
2671 West 5700 South  
Wellsville, Utah 84339

S:\CHC Files\T 9--\T91--\T9105\C\dec & pet.frm